Before the
Federal Communication Commission
Washington, D. C. 20554

In the Matter of	)	
	)	WC Docket No. 05-337
High-Cost Universal Service Support	)	
	)	CC Docket No. 96-45
Federal-State Joint Board on Universal Service	)	

COMMENTS

of the

CORPORATION COMMISSION OF THE STATE OF KANSAS

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Introduction

In response to the Federal Communications Commission's (Commission) Notice of Proposed Rulemaking (Notice)[1] released May 14, 2007, in the above-captioned matter, the Corporation Commission of the State of Kansas (KCC) hereby submits the following comments addressing the interim cap on high-cost universal service support (USF) as recommended by the Federal-State Joint Board on Universal Service (Joint Board). The Corporation Commission of the State of Kansas (KCC) has actively participated in many of the FCC's reform efforts; most recently, the KCC provided data and policy

[1] In the Matter of High-Cost Universal Service Support and Federal-State Joint Board on Universal Service, WC Docket No. 05-337 and CC Docket No. 96-45, *Notice of Proposed Rulemaking*, released May 14, 2007.

insight to the state and industry participants working to refine the Missoula Plan to reform the inter-carrier compensation regime. It is the KCC's hope that the following comments will also be useful to the Commission as it begins its reform of the USF.

Summary of Comments

The KCC finds the Joint Board's plan to be flawed in one important aspect. The plan, despite the Joint Board's claim to the contrary, does not appear to be competitively neutral. Abandoning the Commission's principle of competitive neutrality in the collection and distribution of USF support will distort the competitive marketplace. Any reform of the USF should retain the principle of competitive neutrality. Yet, it is unlikely that any such reform can be implemented quickly. Time will be needed to thoroughly study and implement the most appropriate reforms. Recognizing that there appears to be national concern regarding the size of the fund and its potential to grow in the near future, an interim solution may be desirable. While the Joint-Board's plan does not appear to be competitively neutral, the public interest in controlling the size of the fund may outweigh this concern. If this is the case, the Joint Board's plan may be the most administratively simple and expedient manner of controlling growth in the USF over the short-term. However, this method should not be considered as a long-term solution to reforming the USF.

Competitive Neutrality

A cap on support payable to competitive eligible telecommunications carriers (CETCs) would seem to violate the principle of competitive neutrality. The Joint Board addressed this issue by stating that there are differences in regulatory treatment of incumbents and CETCs which lead to different costs for the carriers.[2] The Joint Board listed several differences in regulatory treatment such as a requirement to provide equal access to long distance service and the obligations as carrier of last resort. While this is true, the Joint Board appears to have lost sight of the intent of competitively neutral porting of support to CETCs. Carriers, incumbent and CETCs alike, were to receive the same amount of support, per-line, to avoid regulatory action which unfairly advantages or disadvantages a carrier. In other words, competitively neutral porting of support would prevent distortion of the outcomes of a competitive market. The incumbent and the CETC are placed on the same relative footing as would exist if no USF support were available to either carrier. This allows the consumers and carriers to make efficient decisions, if the remainder of the USF mechanism also operates in a manner that introduces the least amount of interference into the operation of the marketplace. A cap on the support paid to CETCs will result in unequal payments to carriers on a per-line basis.

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[2] In the Matter of High-Cost Universal Service Support and Federal-State Joint Board on Universal Service, WC Docket No. 05-337 and CC Docket No. 96-45, *Recommended Decision*, released May 1, 2007, paragraph 6.

While the FCC has minimized market interference through its policies on porting of support, this has not been the case with the operation of the remainder of the USF mechanism. Other features of the USF mechanism introduce interference into the market place. For instance, if the FCC had followed through with its initial intent to provide support to the carrier that won the customer and reduce support paid to the carrier that lost the line, growth in the fund would have occurred only to the extent that the USF supported multiple lines per customer. However, in practice, the USF operates so that as an incumbent carrier loses lines to a CETC, its total level of support remains the same and the total per-line support amount increases. Thus, not only does the USF support multiple carriers, it supports CETCs at a per-line rate that is higher than it would otherwise be. In addition, the high-cost model has not been revised to incorporate changes to the costs of the most efficient provider of service. Therefore, while encouraging competition through its policy for porting of support, the FCC has not allowed efficient competition to drive down the support amount.

Interim Cap

As pointed out above, the KCC is concerned that the implementation of the interim cap will result in support being ported to CETCs in a manner that is not competitively neutral. Thus, the KCC would prefer that an interim cap not be implemented. However, if immediately stemming the growth in the high-cost portion of the USF is of greater public interest than ensuring that markets operate without regulatory interference, then the plan submitted by the Joint Board seems otherwise reasonable if implemented only as an interim solution. Long-term reform of the USF should take place as quickly as possible and retain the principle of competitive neutrality.

Recommendation

The KCC recommends that the Commission reject the Joint Board's recommendation because it leads to a distribution of support which is not competitively neutral. However, if immediately stemming the growth in the high-cost portion of the USF is of greater public interest than ensuring that markets operate without regulatory interference, then the plan submitted by the Joint Board seems otherwise reasonable if implemented for only a short-period of time.

Respectfully Submitted,

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